IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 2ND MAY 2007 / 12TH VAISAKHA 1929

WA.No. 1164 of 2007()

AGAINST THE JUDGEMENT IN WPC.13398/2007 Dated 17/04/2007
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APPELLANT: PETITIONER

M/S.SOUTH TRAVANCORE DISTILLERIES AND
ALLIED PRODUCTS,MARUTHUR,
NEYYATTINKARA,THIRUVANANTHAPURAM
REP.BY ASST.MANAGER.

BY ADV. SRI.V.GIRI

RESPONDENTS: RESPONDENTS
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1. THE ASST.COMMISSIONER (ASSMT),
SPECIAL CIRCLE,COMMERCIAL TAXES,
THIRUVANANTHAPURAM.

2. THE DEPUTY COMMISSIONER,
COMMERCIAL TAXES,
THIRUVANANTHAPURAM.

BY GP MUHAMMED RAFEEQ

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 02/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.RAMKUMAR & T.R.RAMACHANDRAN NAIR, JJ.

W.A. No. 1164/2007

Dated this 2nd day of May, 2007

JUDGMENT

V.Ramkumar, J.

The writ petitioner is the appellant. By.Ext.P14 interim order passed by the second respondent, The Deputy Commissioner, Commercial Taxes, Thiruvananthapuram, in a revision at the instance of the appellant against Exts.P1 to P3 orders, the appellant was directed to pay 50% of the disputed penalty within two weeks from the date of receipt of the order. The learned single Judge as per the impugned judgment was pleased to modify the percentage of penalty and reduced the same to 25% of the penalty, imposed under Exts.P1 to P3. It is the said judgment which is assailed in this appeal.

2. It may be true that the orders which are impugned in the revision filed before the second respondent are unsustainable and arbitrary for want of reasons. But the revisional authority having entertained the revision has to dispose of the same in due course. It was pursuant to a direction issued by this Court at the instance of the appellant that the revisional authority disposed of the stay petition as per Ext.P14 order directing the appellant to remit 50% of the penalty

imposed. That was a discretionary relief granted. That was reduced to 25% by the impugned judgment. That again is a matter of discretion exercised by the learned single Judge whose wisdom and discretion cannot be further probed in an appeal preferred under Section 5 of the Kerala High Court Act.

3. Having regard to the facts and circumstances we are however inclined to grant time to the petitioner till 30.6.2007 to pay the 25% of the penalty imposed under Exts.P1 to P3. Such payment shall be subject to the result of the revisions pending before the 2nd respondent.

4. The second respondent may permit the appellant to execute a bond by way of security for the balance amount.

With this observation this appeal is disposed of.

V.RAMKUMAR,
JUDGE

T.R.RAMACHANDRAN NAIR,
JUDGE

mrcs